# Northern District of California

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## UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

TYNISHA MARIE HORNBUCKLE, Plaintiff,

٧.

WARDEN MATEVOUSIAN, et al., Defendants.

Case No. 16-cv-05527-PJH

### **ORDER ON MOTIONS**

Re: Dkt. Nos. 31, 32, 40

Plaintiff proceeds with a pro se civil rights complaint. Defendants have filed a motion for summary judgment and plaintiff filed an opposition. Presently pending are several miscellaneous motions filed by plaintiff. The court ordered service and four defendants were served. The United States Marshal ("USM") was unable to effectuate service on defendants Raski and Snell. Plaintiff was informed that she must provide more information so these defendants can be served. Plaintiff was told that she could seek such information through the California Public Records Act, requesting subpoenas or any other means available. Plaintiff found the address for one defendant; therefore the court will order the USM to conduct service. Plaintiff seeks to compel defendants to provide the information for the other defendant, yet it does not appear that she has requested this information through discovery.

Plaintiff is advised that the court becomes involved in discovery when there is a dispute between the parties. Discovery requests and responses normally are exchanged between the parties without a copy sent to the court. See Fed. R. Civ. P. 5(d) (listing discovery requests and responses that "must not" be filed with the court until they are used in the proceeding or the court orders otherwise). Only when the parties have a

discovery dispute that they cannot resolve among themselves will the court intervene in the discovery process. To promote the goal of addressing only atypical disagreements (rather than becoming an overseer of all discovery), the court requires that the parties meet and confer to try to resolve their disagreements before seeking court intervention.

See Fed. R. Civ. P. 37(a); N.D. Cal. Local Rule 37. Where, as here, one of the parties is a prisoner, the Court does not require in-person meetings and instead allows the prisoner and defense counsel to meet and confer by telephone or exchange of letters. Although the format of the meet-and-confer process changes, the substance of the rule remains the same: the parties must engage in a good faith effort to meet and confer before seeking court intervention in any discovery dispute. Plaintiff should seek this information through discovery. In addition, the court will also provide plaintiff with a subpoena and she must follow the instructions set forth below.

### **CONCLUSION**

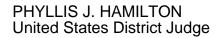
- Plaintiff's motion for an extension to file a response to her amended complaint (Docket No. 31) is **DENIED** as unnecessary.
  - 2. Plaintiff's motion to compel (Docket No. 32) is **DENIED**.
- 3. Plaintiff is informed that as a pro se litigant, plaintiff needs the court's Clerk to issue a subpoena. Fed. R. Civ. P. 45(a)(3). Therefore, the Clerk shall send to plaintiff 1 blank records subpoena form for plaintiff to fill out and return to the court so that the Clerk may issue the subpoena and the USM may serve it on the subpoenaed party. Plaintiff needs to fill in all of the necessary information, but must leave the signature line blank so that the Clerk may sign it.
- 4. Plaintiff's motion for service (Docket No. 40) is **GRANTED**. The United States Marshal shall serve, without prepayment of fees, copies of the complaint with attachments and copies of this order on defendant Dr. David J. Snell at 116 Draeger Road, Moraga, CA 94556 and at 23500 Kasson Rd., Tracy, CA 95304.

## United States District Court Northern District of California

Defendant shall follow the instructions in the court's prior order of service (Docket No. 22).

### IT IS SO ORDERED.

Dated: June 26, 2017



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### 1 2 UNITED STATES DISTRICT COURT 3 NORTHERN DISTRICT OF CALIFORNIA 4 TYNISHA MARIE HORNBUCKLE, Case No. <u>16-cv-05527-PJH</u> 5 Plaintiff, 6 v. **CERTIFICATE OF SERVICE** 7 WARDEN MATEVOUSIAN, et al., 8 Defendants. 9 10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. 11 District Court, Northern District of California. 12 13 That on June 26, 2017, I SERVED a true and correct copy(ies) of the attached, by placing 14 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by 15 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery 16 receptacle located in the Clerk's office. 17 18 Tynisha Marie Hornbuckle ID: 66383-097 FCI Aliceville 19 11070 Highway 14 P O Box 4000 Aliceville, AL 35442 20 21 22 Dated: June 26, 2017 23 24 Susan Y. Soong 25 26 27